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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,504	01/28/2004	Eric J. Lawson	LAW101	5519

54102 7590 05/03/2006

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EXAMINER

HOTALING, JOHN M

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/767,504	Applicant(s) LAWSON ET AL.	
	Examiner John M. Hotaling II	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The amendment filed 3/7/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The whole paragraph which was added to make explicit that which is implicit is new matter. Specifically, appropriate support could not be found for the game of chance is limited to specific number of game tickets 50 with a pre-determined payout, if the number of entrants exceeds the total number of game tickets..., a predetermined payout for a fixed number of entrants limited to the number of game tickets 50 on a record set.

Applicant is required to cancel the new matter, specifically the new paragraph in the reply to this Office Action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sarno US Patent 6,024,641. The rejection of the previous office action is maintained and incorporated herein. Sarno discloses a lottery system that uses various numbers from

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various sources to determine which ticket is the winning ticket over time. Column 2 discloses the reliable way of collecting winning lottery numbers including receiving requests over the internet and printing tickets if using a kiosk and the use of an identification number associated with the ticket. Column 12:23-39 discloses that a way to generate lottery numbers using the results of sporting contests or any combination thereof.

“In some preferred embodiments other published and independently verifiable closing figures for a specific day or series of days may be used. For example, numbers and/or figures used to derive the winning number may be drawn from closing figures of other stock exchanges, commodity exchanges, individual stock and/or commodity closing prices, future indexes, fund indexes, and/or combination(s), recombination(s), and/or permutation(s) thereof. In other preferred embodiments, numbers and/or characters are also derived from one or more published lottery results, score results of sporting events, weather statistics, police statistics, birth statistics, death statistics, and/or combination(s), recombination(s) and/or permutation(s) thereof. As shown, any combination of numbers and/or characters can be predefined to comprise the winning combination and is not dependent upon anything that is controlled by the game provider. “

With respect to the claim limitations of claim 1 the subject of the game of chance can be anything as disclosed in Sarno. Lets just for arguments sake say that the subject is football and the measured performance criteria is the ending score for each game. The number of participants for the game is fixed at the number of teams playing. The number of participants $r = 1$ for the combined performance. Determining each permutation of participants will be the score for each team as well as a ticket for each team. Each game record gets a unique identifier as described above. As in all lotteries a sum is to be paid out if a entrant which has paid to have a ticket has a winning ticket. With respect to claim 2 and the paper ticket with the game record number please see

above. With respect to claim 4 please see figure 3a item numbers 42, 46, and 47 and the relative part of the specification 6:30-40 which shows what information is printed on the ticket. With respect to claims 5, 7, 10 and 11 please see Column 12:23-39 where "...any combination of numbers and/or characters can be predefined to comprise the winning combination and is not dependent upon anything that is controlled by the game provider." With respect to claims 6 and 9 please see above with regards to sporting contests. With respect to claim 8 where the method is claimed to be used on a internet website using a database please see figures 1-6 and columns 1-6 which discloses game play over the internet. With respect to claims 12-15 see column 15. With respect to claim 16 see 12:57-13:3.

Response to Arguments

Applicant's arguments filed 3/21/06 have been fully considered but they are not persuasive. With respect to applicants argument that the system of the instant invention is related to a finite system the applicant's claims contain variables that could be infinite. The relative size of the instant application does not preclude all the claimed subject matter from being taught by the prior art. In additions limitations presented in the claims relative to the new matter were not considered.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Hotaling II whose telephone number is (571) 272 4437. The examiner can normally be reached on Mon-Thurs 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272 3507. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JOHN M. HOTALING, II
PRIMARY EXAMINER

April 28, 2006